



# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • P.O. BOX 2815, SACRAMENTO, CALIFORNIA 95812-2815  
(916) 323-2514 • (916) 324-0908 FAX • [WWW.CALEPA.CA.GOV](http://WWW.CALEPA.CA.GOV)

LINDA S. ADAMS  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER  
GOVERNOR

Certified Mail: 7003 1680 0000 6167 6896

December 7, 2009

Mr. Alan Jones  
Director of Environmental Health  
Lassen County  
1445 Paul Bunyan Road  
Susanville, California 96130

Dear Mr. Jones:

The California Environmental Protection Agency (Cal/EPA), California Emergency Management Agency, and the State Water Resources Control Board conducted a program evaluation of the Lassen County Certified Unified Program Agency (CUPA) on September 15 and 16, 2009. The evaluation was comprised of an in-office program review and a field oversight inspection by State evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Lassen County's program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to Mary Wren-Wilson every 90 days after the evaluation date; the first report is due on December 15, 2009.

Cal/EPA also noted during this evaluation that Lassen County has worked to bring about a number of local program innovations, including an outstanding business plan oversight inspection and development of an APSA informational brochure. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program website to help foster a sharing of such ideas statewide.

Mr. Alan Jones, Director  
Page 2  
December 7, 2009

Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by e-mail at [jbohon@calepa.ca.gov](mailto:jbohon@calepa.ca.gov).

Sincerely,

[Original signed by Jim Bohon for Don Johnson]

Don Johnson  
Assistant Secretary  
California Environmental Protection Agency

Enclosure

cc: Sent via e-mail:

Mr. Yalew Kebede  
Lassen County  
1445 Paul Bunyan Road  
Susanville, California 96130

Mr. Terry Snyder  
State Water Resources Control Board  
P.O. Box 944212  
Sacramento, California 94244-2102

Mr. Jack Harrah  
California Emergency Management Agency  
3650 Schriever Avenue  
Mather, California 95655-4203

Ms. Terry Brazell  
State Water Resources Control Board  
P.O. Box 944212  
Sacramento, California 94244-2102

Mr. Kevin Graves  
State Water Resources Control Board  
P.O. Box 944212  
Sacramento, California 94244-2102

Mr. Alan Jones, Director  
Page 3  
December 7, 2009

cc: Sent via e-mail:

Ms. Asha Arora  
Department of Toxic Substances Control  
700 Heinz Avenue, Suite 200  
Berkeley, California 94710-2721

Mr. Charles McLaughlin  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

Mr. Ben Ho  
Office of the State Fire Marshal  
P.O. Box 944246  
Sacramento, California 94244-2460

Chief Robert Wyman  
California Emergency Management Agency  
3650 Schriever Avenue  
Mather, California 95655



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## **CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS**

**CUPA: Lassen County Environmental Health**

**Evaluation Date: September 15-16, 2009**

### **EVALUATION TEAM**

**Cal/EPA: Mary Wren-Wilson**

**SWRCB: Terry Snyder**

**Cal/EMA: Jack Harrah**

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Mary Wren-Wilson at (916) 323-2204.

	<b><u>Deficiency</u></b>	<b><u>Preliminary Corrective Action</u></b>
1	<p>The CUPA has not fully implemented the Underground Storage Tank (UST) program as mandated in Health and Safety Code and California Code of Regulations.</p> <p>The CUPA, through the Interagency Agreement of 1987 with the Lassen County Department of Agriculture/Agricultural Commissioner (AC), has authorized the AC to implement the UST program in Lassen County. The AC is not implementing the requirements of a UST program.</p> <p>The following UST program requirements are not being implemented by the CUPA (through the AC):</p> <ul style="list-style-type: none"><li>• Standardized UST application forms including all the required information;</li><li>• Issuing UST Consolidated Permits that include UST-specific elements;</li><li>• Processing and maintaining the Owner/Operator Agreement when the operator of the tank is not the owner;</li><li>• Processing and maintaining the Certification of Compliance with UST requirements and Designated Operator statement;</li><li>• Approving monitoring, response, and plot plans;</li><li>• Ensuring that Response Plans have all the required elements;</li></ul>	<p>With the first Update report, due on December 15, 2009, the CUPA will submit an action plan outlining how the CUPA will ensure that the UST program is fully implemented. The action plan shall include the following:</p> <ul style="list-style-type: none"><li>• A program evaluation of its UST program as identified in this deficiency, and will use the findings to guide the program improvement of the UST program, specifically targeting bulleted items in this deficiency.</li><li>• Systematically correcting the most important components (those that will reduce the risk of unauthorized releases) first. This should be: The conducting of Annual Compliance Inspections and completing and providing Inspection Reports with Notice of Violations after the inspection; then follow up with enforcement activities as needed.</li></ul>

**Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings**

	<ul style="list-style-type: none"> <li>• Ensuring that Plot Plans have all the required elements;</li> <li>• Verifying compliance prior to renewal of an existing (or new) permit;</li> <li>• Conducting annual UST Facility inspections at least once every year;</li> <li>• Ensuring CUPA UST inspectors have ICC Certification prior to conducting UST inspections;</li> <li>• Preparing an inspection report;</li> <li>• Conducting follow-up inspections to verify correction of violations and the timeframe in which to correct the violations; and</li> <li>• Taking appropriate enforcement actions.</li> </ul> <p>CCR, Title 23, Sections 2620 (c) [SWRCB] HSC, Chapter 6.7 Section 25283(a)(1)(A) [SWRCB]</p>	<p>In order to help improve UST inspections, the CUPA will schedule an Oversight Inspection in conjunction with an Annual Monitoring Certification with the SWRCB before December 15, 2009. The SWRCB will also consider this an opportunity for the CUPA and SWRCB to coordinate and improve on identified deficiencies in the UST program.</p> <p>By the fourth Update report due September 17, 2010, all UST facility files will be updated with the new Forms A (Facility Information), B (Tank Information), D (Monitoring), E (Response Plan) and plot plans which contain new fields of information from the old forms. In addition, Certification of Compliance/Designated Operator and other forms shall be submitted as needed.</p>
2	<p>The CUPA has not met the three-year inspection frequency for business plan facilities.</p> <p>As reported on the last three Annual Inspection Summary Reports, they conducted were 34 inspections in FY 06-07, 58 in 07-08, 23 in 08-09, and there have been 16 more since August 2009, for a total of 131 inspections out of 195 regulated businesses.</p> <p>HSC, Chapter 6.95, section 25508(b) [Cal EMA]</p>	<p>With the first Update report due on December 15, 2009, The CUPA will submit an action plan to ensure that inspection frequency is maintained.</p> <p>By September 16, 2010, the CUPA will inspect one-third of its total regulated businesses.</p>
3	<p>The CUPA's facility files did not include all elements required to be maintained under the Business Plan Program elements.</p> <p>Six of the ten business plans reviewed did not include training programs. Of the remaining four, two of those were generic and obviously did not really apply to the facility.</p> <p>HSC, Chapter 6.95, sections 25504(c) and 25505(a)(2) [Cal EMA]</p>	<p>Beginning immediately, the CUPA must insure that all elements of the business plan are present, correct and adequately scaled to the facility.</p> <p>By September 16, 2012, all business plans should be complete and accurate.</p>
4	<p>The CUPA's area plan did not include a reporting form similar to the model form found in 19 CCR, Chapter 4, Article 3.</p> <p>CCR, Title 19, Section 2720(d) [Cal EMA]</p>	<p>With the first Update report due on December 15, 2009, the CUPA will submit a reporting form that meets the criteria of 19 CCR 2720(d).</p>

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

<b>5</b>	<p>The CUPA is not accurately reporting informal enforcement activities on the Annual Enforcement Summary Report 4.</p> <p>For example, the CUPA is not tracking or reporting all informal enforcement activities, including letters and phone calls, used to ensure return to compliance.</p> <p>CCR, Title 27, Section 15290(a)(3) [Cal/EPA]</p>	<p>By September 30, 2010, the CUPA will ensure informal enforcement actions are accurately tracked and reported in the 2009/2010 Annual Summary Report 4.</p> <p>Please submit a copy of Summary Report 4 with Update 4, due September 12, 2010.</p>
<b>6</b>	<p>The CUPA is not annually reviewing their Inspection and Enforcement (I&amp;E) Plan.</p> <p>It appears that the CUPA has not reviewed their I&amp;E Plan since the original was submitted with the CUPA application in 2001.</p> <p>CCR, Title 27, Section 15200(b) [Cal/EPA]</p>	<p>By the first update due on December 15, 2009 the CUPA will review and update the I&amp;E Plan as necessary. A report on the review of, and any changes made to, the I&amp;E Plan shall be submitted with Update 1.</p>

**CUPA Representative**

Alan Jones

(Print Name)

Original Signed

(Signature)

**Evaluation Team Leader**

Mary Wren-Wilson

(Print Name)

Original Signed

(Signature)

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

**PROGRAM OBSERVATIONS AND RECOMMENDATIONS**

*The observations and recommendations provided in this section address activities the CUPA are implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.*

1. **Observation:** The fees charged by the CUPA do not cover the expenses incurred for implementing the program.

**Recommendation:** The CUPA should evaluate their current fee schedule to determine if changes can be made to help them reach the goal of their fees offsetting the cost of implementing the Unified Program.

2. **Observation:** The current UST inspector is in the process of obtaining ICC certification.

**Recommendation:** The UST inspector should consider applying for a CUPA Forum grant to attend the 2010 CUPA Conference. Scholarships are available to CUPA and PA staff. The CAL CUPA Forum can be reached at 530-676-0815. Fax application to 530-676-0515, or send by email to [ConferenceManager@calcupa.org](mailto:ConferenceManager@calcupa.org). Scholarship applications for the California Unified Program Annual (CUPA) Conference are due 10/31.

3. **Observation:** The Health Department portion of the Lassen County website is very basic.

**Recommendation:** The CUPA should consider updating their website by making forms, brochures, and other information available to the public and regulated community.

4. **Observation:** The CUPA's Records Maintenance Procedure is missing a required element. The procedure does not address proper disposal methods.

**Recommendation:** Language should be added to clarify the proper disposal methods the CUPA can use to dispose of CUPA records.

5. **Observation:** The CUPA has incorrectly cited Section 15188 in reference to records retention times in their policies and procedures.

**Recommendation:** The citation should be changed to Section 15185.

6. **Observation:** The CUPA has recently developed and included a "Correspondence Log" in their files.

**Recommendation:** This log can be a very useful tool in tracking informal enforcement activity in reference to Deficiency 5.

7. **Observation:** The CUPA's area plan did not include the SB 391 mandated pesticide drift elements. Because the area plan was finalized prior to the adoption of Title 19 regulations, these elements were not required at that time.

**Recommendation:** The next revision of the area plan, which is scheduled for May, 2011, must include all of the mandated pesticide drift elements.

8. **Observation:** The CUPA has only inspected 1 of its 2 stationary sources over the past three years. Both of these stationary sources are scheduled to be inspected prior to October 1, 2009.

**Recommendation:** Cal EMA recommends that the CUPA put a high priority on CalARP inspections, since these are the highest-risk facilities. The CUPA should ensure that each of the stationary sources be inspected at

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

least every three years.

- 9. Observation:** The CUPA is currently using two separate self-audit documents.

**Recommendation:** At the CUPA's option, the CalARP Performance Audit may be combined with the annual Title 27 self-audit. If the CUPA opts to combine these two self-audits, Cal EMA recommends that each of the elements of 19 CCR 2780.5 be addressed, even if the answer is "none".

- 10. Observation:** The CUPA does not have an ordinance stating it will meet or adopt state standards.

**Recommendation:** Cal/EPA recommends that the CUPA have an ordinance to adopt state standards for a unified program.

- 11. Observation:** On the one Facility Information form (Form A) reviewed, the CUPA did not have the Board of Equalization number recorded.

**Recommendation:** The SWRCB strongly encourages the CUPA to secure BOE numbers from Owner/Operators and enter them on the required form.

- 12. Observation:** In the CUPA's Policy document in the CUPA Program Summary Report section on page 3, the required Report 6 for UST facilities is to be submitted to the SWRCB on a quarterly basis.

**Recommendation:** The SWRCB informs the CUPA that the Report 6 is now submitted semi-annually and the policy document should be changed to reflect this new frequency.



Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

1. The CUPA has developed an APSA informational brochure that will be distributed to its regulated community. This will be sent out in anticipation of an APSA workshop the CUPA anticipates offering to affected facilities.
2. The CUPA practices an education-based enforcement philosophy that helps them maintain a good working relationship with the regulated community. This relationship appears to encourage a higher degree of return to compliance than more formal enforcement activities would. This demonstrates that the CUPA has a deep understanding of the regulated community.
3. Cal EMA accompanied the CUPA's inspector on business plan inspections of a Bureau of Land Management (BLM) equipment repair and staging area, and a BLM wild horse rescue facility. These inspections were thorough and covered all elements of the business plan program. There was a small amount of oil generation at the equipment maintenance facility, and some universal waste generation at both facilities. The inspector spent some time at each facility educating the operators on program requirements, and demonstrated both patience and professionalism in the face of some push-back on the part of an operator representative. All in all, these were top-notch inspections.
4. The CUPA requires as a condition of the UST permit that facilities submit a quarterly report to the CUPA stating that they have had no unauthorized releases during this period. They are the only CUPA in the state that the SWRCB evaluator is aware of who require this. The SWRCB considers this a step above the requirements of the UST program.